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104TH CONGRESS
2D SESSION

S. 2121

To ensure medicare beneficiaries participating in managed care have access to emergency and urgent care.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1996

Mr. GRAHAM (for himself, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. CHAFEE, Mr. JEFFORDS, Mr. BAUCUS, Mr. SIMON, Mr. HOLLINGS, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To ensure medicare beneficiaries participating in managed care have access to emergency and urgent care.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Access to Emergency Medical Care Act of 1996".

SEC. 2. REQUIREMENTS FOR MEDICARE MANAGED CARE.

(a) ACCESS TO EMERGENCY SERVICES.—Section 1876(c) of the Social Security Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following:

"(9)(A) A risk-sharing contract under this section shall require an eligible organization that provides any coverage with respect to emergency services to cover emergency services furnished to a member enrolled with the organization—

"(i) without regard to whether or not the provider furnishing the emergency services has a contractual or other arrangement with the organization for the provision of such services to such members, and

"(ii) without regard to prior authorization.

"(B)(i) A risk-sharing contract under this section shall require an eligible organization that provides any coverage with respect to emergency services—

"(I) to determine and make prompt payment (within the meaning of subsection (g)(6)(A)) in a reasonable and appropriate amount for such services (including services required to be provided under section 1867), and

"(II) subject to clause (ii), to not impose cost-sharing for services furnished in a hospital emergency department that is calculated in a manner (such as the use of a different percentage) that imposes greater cost sharing with respect to such serv-

ices compared to comparable services furnished in other settings.

"(ii) An eligible organization may impose a reasonable copayment (as determined in accordance with standards established by the Secretary) in lieu of coinsurance to deter inappropriate use of services of hospital emergency departments.

"(C) In this paragraph, the term 'emergency services' has the same meaning as in paragraph (10)(D).".

(b) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—Section 1876(c) of such Act (42 U.S.C. 1395mm(c)), as amended by subsection (a), is amended by adding at the end the following:

"(10)(A) The organization must provide access 24 hours a day, 7 days a week to individuals who are authorized to make any prior authorizations required by the organization for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(B) The organization is deemed to have approved a request for such promptly needed items and services if

the physician or other emergency department personnel involved—

"(i) has made a reasonable effort to contact an individual described in subparagraph (A) for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in subparagraph (A)), or

"(ii) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(C) Approval of a request for a prior authorization determination (including a deemed approval under subparagraph (B)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(D) In this paragraph, the term 'emergency services' means—

"(i) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(ii) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in subparagraph (E)) until the condition is stabilized (as defined in subparagraph (F)).

"(E) In subparagraph (D), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(i) placing the person's health in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(F) In subparagraph (D), the term 'stabilized' means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result or occur before an individual can be transferred in compliance with the requirements of section 1867.".

(c) CONFORMING AMENDMENT.—Section 1876(c)(4)(B) of such Act (42 U.S.C. 1395mm(c)(4)(B)) is amended by inserting "subject to paragraphs (9) and (10)," before "provide".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective for contract years beginning on or after the date of the enactment of this Act.

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